

DOCKET NO.: NNH-CV17-6072389-S	:	SUPERIOR COURT
	:	
ELIYAHU MIRLIS	:	J. D. OF NEW HAVEN
	:	
v.	:	AT NEW HAVEN
	:	
YESHIVA OF NEW HAVEN, INC.	:	JULY 17, 2019
FKA THE GAN, INC. FKA THE GAN	:	
SCHOOL, TIKVAH HIGH SCHOOL AND	:	
YESHIVA OF NEW HAVEN, INC.	:	

**MOTION TO PRECLUDE EXPERT TESTIMONY OR IN THE
ALTERNATIVE FOR A PROTECTIVE ORDER AND TO MODIFY SUBPOENAS**

Pursuant to the Court’s inherent authority, the plaintiff, Eliyahu Mirlis (“Plaintiff”), by and through his undersigned counsel, hereby moves for an order precluding the defendant, Yeshiva of New Haven, Inc. fka The Gan, Inc. fka The Gan School, Tikvah High School and Yeshiva of New Haven, Inc.’s (“Defendant”), from calling expert witnesses at the hearing scheduled for August 23, 2019 (the “Hearing”), regarding the valuation of the property that is the subject of this foreclosure action. Defendant has refused to disclose the names or reports of experts that it intends to call at the Hearing, and at the same time seeks to depose Plaintiff’s appraisers. This is part of the strategy of delay and unreasonable tactics employed by Defendant and Daniel Greer (“D. Greer”), against whom Plaintiff obtained a judgment in excess of \$21 million on account of D. Greer’s repeated conduct of sexual abusing, exploiting, and assaulting Plaintiff while Plaintiff was a minor and a boarding student attending the Yeshiva’s school. Defendant and D. Greer have paid less than \$280,000.00 toward the judgment, and none of it voluntarily.

In the alternative, Plaintiff moves pursuant to Practice Book § 13-5 and 13-28, for a protective order and for an order modifying the subpoenas served upon Plaintiff’s appraisers, specifying the terms and conditions on which certain discovery sought by the Defendant, may be had.

**ORAL ARGUMENT REQUESTED
TESTIMONY NOT REQUIRED**

I. FACTUAL BACKGROUND

The judgment that gave rise to this judgment lien foreclosure action arises was entered in the action captioned Eliyahu Mirlis v. Daniel Greer et al., No. 3:16-cv-00678 (MPS) (the “Underlying Action”), which was against, *inter alia*, Defendant and D. Greer by Plaintiff. Plaintiff alleged the Underlying Action, *inter alia*, that beginning in 2002, when Plaintiff was between the ages of fifteen and seventeen years old and a boarding student at the school operated by Defendant, D. Greer—who is both an attorney and a rabbi, and who is and the president of Defendant and a member of its board of directors—repeatedly and continuously sexually abused, exploited, and assaulted him. On or about May 18, 2017, the jury in the Underlying Action returned its verdict against D. Greer and Defendant, finding that Plaintiff had proven each of the causes of action alleged against them. On June 6, 2017, the United States District Court for the District of Connecticut entered a judgment (the “Judgment”) in favor of Plaintiff in the Underlying Action against Defendant and D. Greer in the amount of \$21,749,041.10. The Judgment remains almost completely unsatisfied, with any minimal payments made having resulted from collection and foreclosure efforts of Mirlis. There have been **no** voluntary payments made by Defendant or D. Greer on the Judgment. Payments toward the Judgment total only \$277,124.51, and thus, there is presently due and owing Plaintiff \$22,004,815.64, exclusive of attorneys’ fees and costs expended in the collection of the Judgment.

Defendant owns the real property situated in the known as 765 Elm Street, New Haven, Connecticut (the “Property”). Plaintiff seeks to foreclose the judgment lien (the “Judgment Lien”) encumbering the Property in order to collect some of the funds owed to him by Defendant.

On June 5, 2019, Plaintiff filed a Motion for Judgment of Strict Foreclosure (the “Motion for Judgment”) (Doc. No. 113) and the supporting appraisal report (the “Appraisal”) (Doc. No. 114). The

Appraisal valued the Property at \$960,000.00. In response, Defendant filed Defendant's (1) Objection to Motion for Judgment of Strict Foreclosure, (2) Motion to Discharge Judgment Lien and Substitute Bond, and (3) Motion to Continue Hearing on Motion for Judgment of Strict Foreclosure (the "Objection") (Doc. No. 115). In the Objection, Defendant, *inter alia*, seeks "to discharge the Judgment Lien with respect to the Property upon substitution of an acceptable bond or other security in the amount of the fair market value of the Property."¹ (Objection, p.4.) Defendant also filed a Motion to Substitute Bond (Doc. No. 106) a year and a half ago on January 16, 2018, seeking the same relief, but never prosecuted that Motion. Defendant argues that the Court should determine the fair market value of the Property, stating that the value of the Property set forth in the Appraisal was "too high". (*Id.*, pp. 4-5.) Thus, as Defendant asserts the value of the Property is less than \$960,000.00, there is no dispute that if Plaintiff were to be awarded a judgment of foreclosure, that the method of foreclosure would be strict foreclosure as the value of the Property is not even one-twentieth of the Judgment debt. The Court scheduled Hearing for August 23, 2019, based on the Objection.

The Appraisal was performed by Patrick S. Craffey ("Craffey") and Patrick A. Lemp ("Lemp") of Valbridge Property Advisors. On July 16, 2019, Defendant's counsel provided Plaintiff's counsel with copies of (1) a Subpoena Duces Tecum (the "Craffey Subpoena") directed to Craffey (attached hereto as **Exhibit A**), compelling Craffey to produce certain documents and appear at a deposition on July 29, 2019; (2) a Notice of Deposition (the "Craffey Notice") as to Craffey (attached hereto as **Exhibit B**), seeking substantially the same discovery as the Craffey Notice; (3) a Subpoena Duces Tecum (the "Lemp Subpoena" and together with the Craffey Subpoena, the "Subpoenas") directed to Lemp (attached hereto as **Exhibit C**), compelling Lemp to produce certain documents and appear at a deposition on July 26, 2019; and (4) a Notice of Deposition (the "Lemp Notice" and

¹ Defendant also filed a Motion to Substitute Bond (Doc. No. 106) on January 16, 2018, seeking the same relief, but never prosecuted that Motion.

together with the Craffey Notice, the “Notices”) as to Lemp (attached hereto as **Exhibit D**), seeking substantially the same discovery as to Lemp.

Defendant has not disclosed its expert appraiser, any report, or any documents related to such report, despite Plaintiff’s request for the same before Plaintiff’s appraisers are deposed. In addition, Plaintiff was informed by Defendant that Defendant had a “Phase I” environmental report prepared or that one was being prepared. As with its appraiser, Defendant has not disclosed the expert conducting the report, the report, or any documents in conjunction with that report.

II. LEGAL STANDARD

A. Motion to Preclude Expert

Practice Book § 13-4 concerns expert discovery. Specifically, Practice Book § 13-4(h) contains a provision for precluding experts from being called at trial. However, the Supreme Court interpreted former Practice Book § 13-4(4) as not precluding the Court “from imposing reasonable sanctions under either the broader, more general provisions of § 13-14, or under the court's inherent power, so long as that imposition is not inconsistent with the provisions of § 13-4(4). Although the provisions of § 13-4(4) are specific and detailed, there is no reason to think that, when the judges adopted them, they intended them to displace either the court's inherent power to impose sanctions, or the more general provisions of § 13-14, which also deals with violations of discovery orders.” Millbrook Owners Ass'n v. Hamilton Standard, 257 Conn. 1, 12-13 (2001).

B. Motion for Protective Order and to Quash Subpoenas

Practice Book § 13-5 provides that

[u]pon motion by a party from whom discovery is sought, and for good cause shown, the judicial authority may make any order which justice requires to protect a party from annoyance, embarrassment, oppression, or undue burden or expense, including . . . (2) that the discovery may be had only on specified terms and conditions, including a designation of the time and place. . . .

In addition, Practice Book § 13-28(e) provides:

The court in which the cause is pending, or, if the cause is pending in a foreign court, the court in the judicial district wherein the subpoenaed person resides, may, upon motion made promptly and, in any event, at or before the time for compliance specified in a subpoena authorized by subsection (b) of this section, (1) quash or modify the subpoena if it is unreasonable and oppressive or if it seeks the production of materials not subject to production under the provisions of subsection (c) of this section. . . .

A party may file a motion for protective order regarding discovery not sought from the party if a protective order is necessary to protect a party's interests. Cahn v. Cahn, 26 Conn. App. 720, 728 (1992) ("Although the discovery being sought by the defendant was not from the plaintiff, the protective order was necessary to protect a party's interest. Accordingly, the plaintiff properly filed a motion for a protective order, to prevent the defendant from conducting depositions of nonparty witnesses."); Opotzner v. Bass, CV 96254963, 1998 Conn. Super. LEXIS 3704, at *6 (Super. Ct. Dec. 30, 1998) (party had standing to move for protective order regarding subpoenas directed to non-party experts).

III. LAW AND ARGUMENT

A. Defendant Should Be Precluded from Calling Expert Witnesses at the Hearing

The Court should use its inherent authority to preclude Defendant from calling any expert witnesses at the Hearing. Defendant moved to discharge the Judgment Lien in exchange for a bond in January 2018, but never sought to prosecute that motion or seek the relief sought therein until Plaintiff filed the Motion for Judgment and the Appraisal. Defendant now refuses to disclose his expert, provide an expert report, or provide any documents. In addition, Plaintiff is informed that Defendant had an environmental investigation of the Property performed. Plaintiff has not been informed who performed this, nor has Plaintiff been provided with a report. At the same time, Defendant has issued the Notices and the Subpoenas, seeing to depose and gather documents from

Plaintiff's appraisers, without disclosing any information to Plaintiff. Defendant has taken this position even though it affirmatively seeks relief under Conn. Gen. Stat. § 52-380e and bears the burden of demonstrating the sufficiency of the substitution. See Jefferson v. SBD, Kitchens, LLC, No. FSTCV116011187S, 2015 Conn. Super. LEXIS 12, at *11-12 (Super. Ct. Jan. 7, 2015). This is part of Defendant's continued strategy to avoid paying the Judgment and to employ litigation tactics designed to defeat the due administration of justice. The Court should not countenance this and should preclude Defendant from calling any expert witnesses at the hearing.

B. In the Alternative, the Court Should Enter a Protective Order and Modify the Subpoenas

In the alternative, if the Court does not preclude Defendant from calling expert witnesses at the Hearing, the Court should enter a protective order and modify the subpoenas directed to Craffey and Lemp in this matter so that there is an orderly exchange of documents relating to expert witnesses that the parties intend to call at the valuation hearing and to set the order of depositions.

Defendant, through the objection seeks to discharge the Judgment Lien upon substitution of a bond or other property pursuant to Conn. Gen. Stat. § 52-380e, which provides:

When a lien is placed on any real or personal property pursuant to section 52-355a or 52-380a, the judgment debtor may apply to the court to discharge the lien on substitution of (1) a bond with surety or (2) a lien on any other property of the judgment debtor which has an equal or greater net equity value than the amount secured by the lien. The court shall order such a discharge on notice to all interested parties and a determination after hearing of the sufficiency of the substitution. The judgment creditor shall release any lien so discharged by sending a release sufficient under section 52-380d by first class mail, postage prepaid, to the judgment debtor.

The party moving to discharge a lien under this statute has the burden of demonstrating the sufficiency of the substitution. Jefferson, 2015 Conn. Super. LEXIS 12, at *11-12. In order to establish the sufficiency of the substitution, it logically follows that the movant must first establish

the value of the lien to be substituted, the Judgment Lien in this case. The value of the Judgment Lien necessarily depends upon the value of the Property, which the parties do not dispute has a value that is far less than the Judgment. Thus, it is Defendant's burden, upon its motion to substitute, to establish the value of the Property. In fact, under the current facts, the Court would not have to determine the value of the Property with regard to the Motion for Judgment, as it is clear and undisputed that the value of the Property is far less than the Judgment debt. The Court need only determine the manner of foreclosure and the amount of the debt for a foreclosure judgment to be final. Moran v. Morneau, 129 Conn. App. 349, 356 (2011).

In this case, Defendant, while bearing the burden on the issue of discharging the Judgment Lien, is seeking unfairly to depose Plaintiff's experts and compel the production of documents from them before disclosing its own experts, any reports produced by those experts, and any documents relied upon by those experts. This gives Defendant an unfair advantage as it is typically the party bearing the burden of demonstrating that it is entitled to the relief it is seeking who must disclose its evidence and experts first. Defendant is attempting to turn this on its head by seeking to depose and obtain documents from Plaintiff's experts while refusing to disclose its own experts or any documents related thereto. The Court should not permit this.

Plaintiff proposes that the Court modify the Subpoenas and the Notices in a way reasonably calculated for both parties to obtain sufficient discovery prior to the August 23, 2019, valuation hearing. Plaintiff proposes that: (1) with respect to all expert witnesses the parties intend to call at the valuation hearing, the parties shall produce all reports of such experts and "all materials obtained, created and/or relied upon by the expert in connection with his or her opinions in the case" as set forth in Practice Book § 13-4(b)(3) on or before August 2, 2019; and (2) that depositions of such experts shall take place on or before August 16, 2019, with the depositions of

any of Defendant's experts to be completed prior to the depositions of any of Plaintiff's experts.

IV. CONCLUSION

WHEREFORE, Plaintiff respectfully requests that the Court preclude Defendant from calling any expert witnesses at the Hearing, or in the alternative, modify the Subpoenas and the Notices as set forth above, and grant such other and further relief as justice requires.

THE PLAINTIFF
ELIYAHU MIRLIS

By: /s/ John L. Cesaroni
John L. Cesaroni
ZEISLER & ZEISLER, P.C.
10 Middle Street
15th Floor
Bridgeport, Connecticut 06604
(203) 368-4234
jcesaroni@zeislaw.com
His Attorneys

CERTIFICATE OF SERVICE

This is to certify that today a copy of the foregoing Motion to Preclude Expert Testimony or in the Alternative for a Protective Order and to Modify Subpoenas was sent to all appearing parties and counsel of record as follows via electronic mail:

Jeffrey M. Sklarz
Green & Sklarz LLC
700 State Street
Suite 100
New Haven, CT 06511
jsklarz@gs-lawfirm.com

/s/ John L. Cesaroni
John L. Cesaroni

EXHIBIT A

DOCKET NO: NNH-CV17-6072389-S	:	SUPERIOR COURT
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SCHOOL, TIKVAH HIGH SCHOOL AND	:	
YESHIVA OF NEW HAVEN, INC.	:	JULY 16, 2019

SUBPOENA DUCES TECUM

TO: Patrick Craffey
Valbridge Property Advisors
15 Concord Street
Glastonbury, CT 06033
P: 860-246-4606

BY THE AUTHORITY OF THE STATE OF CONNECTICUT and pursuant to Practice Book §§ 13-26 et seq. and Conn. Gen. Stat. § 52-143 et seq., the defendant, The Yeshiva of New Haven, Inc. (the “Yeshiva” or the “Defendant”), hereby commands that **Patrick Craffey** (the “Deponent”), appear for his deposition upon oral examination on **July 29, 2019 at 10:00AM**, at the offices of Green & Sklarz, LLC, 700 State St., Suite 100, New Haven, CT, or another location as the parties and deponent may mutually agree upon.

The deposition will take place before a notary public or other authorized authority and will continue from day to day until complete.

Take further notice that the deponent is requested to bring and produce at the deposition the documents set forth on Exhibit A hereto.

HEREOF FAIL NOT TO APPEAR UNDER PENALTY OF LAW.

THE DEFENDANT:

By:



Jeffrey M. Sklarz
Green & Sklarz LLC
700 State Street, Suite 100
New Haven, CT 06511
(203) 285-8545
Fax: (203) 823-4546
jsklarz@gs-lawfirm.com

CERTIFICATE OF SERVICE

This is to certify that on July 16, 2019, a copy of the foregoing was sent to all appearing parties and counsel of record as follows via electronic email:

Matthew Beatman
John L. Cesaroni
Zeisler & Zeisler, P.C.
10 Middle Street, 15th Floor
Bridgeport, Connecticut 06604
mbeatman@zeislaw.com
jcesaroni@zeislaw.com



Jeffrey M. Sklarz

EXHIBIT A

DEFINITIONS AND INSTRUCTIONS

The following definitions will be defined and used herein as follows:

The term “**communication**” shall mean the transmittal of information (in the form of facts, ideas, inquiries or otherwise).

The term “**concerning**” means relating to, referring to, describing, evidencing, or constituting.

The term “**document**” shall be defined as any recordation of information in a tangible, audible, or perceptible medium, including writings, drawings, graphs, charts, photographs, phonorecords, and other data compilations from which information can be obtained, translated, if necessary, by the respondent through detection devices into a reasonably usable format, contracts, correspondence, reports, agreements, printouts, notes, papers, facsimile transmissions, memoranda, summaries, financial calculations and reports, accounting entries, diary entries, tabulations, statements, invoices, notebooks, drafts of any documents, revisions of drafts of any documents, canceled checks, bank statements, emails, and so on. A draft or non-identical copy is a separate document within the meaning of this term.

The term “**entity**” includes an individual, partnership, corporation, limited liability partnership or company, voluntary association, estate, trust, trustee or other fiduciary, or governmental unit.

The term “**Expert Report**” refers to your appraisal report dated May 30, 2019 and docketed in this lawsuit, including but not limited to an expert report, summary of your work performed, your examination or your findings with respect to the matters for which you were retained, any test, experiment, diagnosis or evaluation performed by you in connection with your

retention, as well as all drafts, prior versions, revisions, exhibits, schedules, and files, documents and workpapers related thereto.

The term “**identify**” (with respect to documents): When referring to documents, to “identify” means to provide, to the extent known, information about the (i) type of document; (ii) its general subject matter; (iii) the date of the document; and (iv) author(s), addressee(s) and recipient(s).

The term “**lawsuit**” refers to the civil action pending in the Connecticut Superior Court bearing the docket number: NNH-CV17-6072389-S as well as all allegations contained in the Plaintiff’s complaint, the Defendants’ answer, special defenses and counterclaims as well as Plaintiff’s responses thereto.

The term “**person**” is defined as any natural person or any business, legal or governmental entity or association.

The terms “**plaintiff**” and “**defendant**” as well as a party’s full or abbreviated name or a pronoun referring to a party mean the party and, where applicable, its officers, directors, employees, partners, corporate parent, subsidiaries or affiliates. This definition is not intended to impose a discovery obligation on any person who is not a party to the litigation.

The terms “**you**” and “**your**” or “**deponent**” shall refer to the deponent, Patrick Craffey, in this matter, as well as his respective predecessors, successors, assigns, affiliates, agents, employees and related companies as well as their agents, servants and employees.

The following rules of construction apply to all discovery requests:

- (1) **All/Each:** The terms “all” and “each” shall both be construed as all and each.

(2) **And/Or:** The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside its scope.

(3) **Number:** The use of the singular form of any word includes the plural and vice versa.

(4) **Privilege:** When a claim of privilege or work product protection is asserted in response to a discovery request for documents, the party asserting the privilege or protection shall provide the following information in the form of a privilege log: (a) the type of document; (b) the general subject matter of the document; (c) the date of the document; (d) the author of the document; and (e) each recipient of the document. If the information called for by one or more of the foregoing categories is itself privileged, it need not be disclosed. However, the existence of the document and any non-privileged information called for by the other categories must be disclosed.

(5) If any requested document has been destroyed or discarded, identify the document by providing the information called for in subparagraphs (4)(a-e) and provide in addition: the identity of the person responsible for having the document destroyed or discarded and the reason for the destruction or discard of the document.

(6) The requests herein are continuing demands, and if any of the documents responsive to any of these requests is obtained after the return date of this request, they are to be furnished to the undersigned pursuant to this request.

(7) Unless stated otherwise herein, these requests for production shall concern the period from January 1, 1990 through the present date.

REQUEST FOR PRODUCTION OF DOCUMENTS

1. All documents you consulted, reviewed, considered, or otherwise looked at, to prepare your Expert Report. (To the extent that such documents are derived from discovery in this lawsuit, you may list the Bates Numbers of the documents consulted rather than produce the document.)

2. Your entire file concerning the lawsuit and Expert Report, both electronic and paper. (If your file is available electronically you need not also produce paper versions of what is also available electronically, so long as the electronic and paper version are identical.)

3. All correspondence and communications concerning the lawsuit

4. All correspondence and communications concerning the Expert Report.

5. Your engagement letter concerning this lawsuit and/or your preparation of your Expert Report.

6. All drafts of your Expert Report.

7. All notes and work papers concerning your Expert Report.

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9. All documents concerning your Expert Report.

10. All communications concerning your Expert Report.

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EXHIBIT B

PDOCKET NO: NNH-CV17-6072389-S	:	SUPERIOR COURT
	:	
ELIYAHU MIRLIS	:	J.D. OF NEW HAVEN
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V.	:	AT NEW HAVEN
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YESHIVA OF NEW HAVEN, INC. FKA	:	
THE GAN, INC. FKA THE GAN	:	
SCHOOL, TIKVAH HIGH SCHOOL AND	:	
YESHIVA OF NEW HAVEN, INC.	:	JULY 16, 2019

NOTICE OF DEPOSITION

PLEASE TAKE NOTICE that pursuant to Practice Book §§ 13-26 et seq., the defendant, The Yeshiva of New Haven, Inc. (the “Yeshiva” or the “Defendant”), will take the deposition upon oral examination of **Patrick Craffey (the “Deponent”)** on **July 29, 2019 at 10:00AM**. Said depositions shall be held at the date and time set forth above, or such day thereafter as the parties may agree, at the offices of Green & Sklarz, 700 State Street, Suite 100, New Haven, CT 06511, or another location as the parties and Deponent may mutually agree upon.

The deposition will be recorded stenographically before a notary public or other authorized authority and shall continue from day to day until complete.

Pursuant to Practice Book § 13-27(g), the Deponent is requested to bring and produce at the deposition the documents set forth on Exhibit A hereto.

You are invited to attend and cross-examine.

THE DEFENDANT:

By:



Jeffrey M. Sklarz
Green & Sklarz LLC
700 State Street, Suite 100
New Haven, CT 06511
(203) 285-8545
Fax: (203) 823-4546
jsklarz@gs-lawfirm.com

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Matthew Beatman
John L. Cesaroni
Zeisler & Zeisler, P.C.
10 Middle Street, 15th Floor
Bridgeport, Connecticut 06604
mbeatman@zeislaw.com
jcesaroni@zeislaw.com



Jeffrey M. Sklarz

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EXHIBIT C

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SUBPOENA DUCES TECUM

TO: Patrick Lemp
Valbridge Property Advisors
15 Concord Street
Glastonbury, CT 06033
P: 860-246-4606

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The deposition will take place before a notary public or other authorized authority and will continue from day to day until complete.

Take further notice that the deponent is requested to bring and produce at the deposition the documents set forth on Exhibit A hereto.

HEREOF FAIL NOT TO APPEAR UNDER PENALTY OF LAW.

THE DEFENDANT:

By:



Jeffrey M. Sklarz
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700 State Street, Suite 100
New Haven, CT 06511
(203) 285-8545
Fax: (203) 823-4546
jsklarz@gs-lawfirm.com

CERTIFICATE OF SERVICE

This is to certify that on July 16, 2019, a copy of the foregoing was sent to all appearing parties and counsel of record as follows via electronic email:

Matthew Beatman
John L. Cesaroni
Zeisler & Zeisler, P.C.
10 Middle Street, 15th Floor
Bridgeport, Connecticut 06604
mbeatman@zeislaw.com
jcesaroni@zeislaw.com



Jeffrey M. Sklarz

EXHIBIT A

DEFINITIONS AND INSTRUCTIONS

The following definitions will be defined and used herein as follows:

The term “**communication**” shall mean the transmittal of information (in the form of facts, ideas, inquiries or otherwise).

The term “**concerning**” means relating to, referring to, describing, evidencing, or constituting.

The term “**document**” shall be defined as any recordation of information in a tangible, audible, or perceptible medium, including writings, drawings, graphs, charts, photographs, phonorecords, and other data compilations from which information can be obtained, translated, if necessary, by the respondent through detection devices into a reasonably usable format, contracts, correspondence, reports, agreements, printouts, notes, papers, facsimile transmissions, memoranda, summaries, financial calculations and reports, accounting entries, diary entries, tabulations, statements, invoices, notebooks, drafts of any documents, revisions of drafts of any documents, canceled checks, bank statements, emails, and so on. A draft or non-identical copy is a separate document within the meaning of this term.

The term “**entity**” includes an individual, partnership, corporation, limited liability partnership or company, voluntary association, estate, trust, trustee or other fiduciary, or governmental unit.

The term “**Expert Report**” refers to your appraisal report dated May 30, 2019 and docketed in this lawsuit, including but not limited to an expert report, summary of your work performed, your examination or your findings with respect to the matters for which you were retained, any test, experiment, diagnosis or evaluation performed by you in connection with your

retention, as well as all drafts, prior versions, revisions, exhibits, schedules, and files, documents and workpapers related thereto.

The term “**identify**” (with respect to documents): When referring to documents, to “identify” means to provide, to the extent known, information about the (i) type of document; (ii) its general subject matter; (iii) the date of the document; and (iv) author(s), addressee(s) and recipient(s).

The term “**lawsuit**” refers to the civil action pending in the Connecticut Superior Court bearing the docket number: NNH-CV17-6072389-S as well as all allegations contained in the Plaintiff’s complaint, the Defendants’ answer, special defenses and counterclaims as well as Plaintiff’s responses thereto.

The term “**person**” is defined as any natural person or any business, legal or governmental entity or association.

The terms “**plaintiff**” and “**defendant**” as well as a party’s full or abbreviated name or a pronoun referring to a party mean the party and, where applicable, its officers, directors, employees, partners, corporate parent, subsidiaries or affiliates. This definition is not intended to impose a discovery obligation on any person who is not a party to the litigation.

The terms “**you**” and “**your**” or “**deponent**” shall refer to the deponent, Patrick Lemp, in this matter, as well as his respective predecessors, successors, assigns, affiliates, agents, employees and related companies as well as their agents, servants and employees.

The following rules of construction apply to all discovery requests:

- (1) **All/Each:** The terms “all” and “each” shall both be construed as all and each.

(2) **And/Or:** The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside its scope.

(3) **Number:** The use of the singular form of any word includes the plural and vice versa.

(4) **Privilege:** When a claim of privilege or work product protection is asserted in response to a discovery request for documents, the party asserting the privilege or protection shall provide the following information in the form of a privilege log: (a) the type of document; (b) the general subject matter of the document; (c) the date of the document; (d) the author of the document; and (e) each recipient of the document. If the information called for by one or more of the foregoing categories is itself privileged, it need not be disclosed. However, the existence of the document and any non-privileged information called for by the other categories must be disclosed.

(5) If any requested document has been destroyed or discarded, identify the document by providing the information called for in subparagraphs (4)(a-e) and provide in addition: the identity of the person responsible for having the document destroyed or discarded and the reason for the destruction or discard of the document.

(6) The requests herein are continuing demands, and if any of the documents responsive to any of these requests is obtained after the return date of this request, they are to be furnished to the undersigned pursuant to this request.

(7) Unless stated otherwise herein, these requests for production shall concern the period from January 1, 1990 through the present date.

REQUEST FOR PRODUCTION OF DOCUMENTS

1. All documents you consulted, reviewed, considered, or otherwise looked at, to prepare your Expert Report. (To the extent that such documents are derived from discovery in this lawsuit, you may list the Bates Numbers of the documents consulted rather than produce the document.)
2. Your entire file concerning the lawsuit and Expert Report, both electronic and paper. (If your file is available electronically you need not also produce paper versions of what is also available electronically, so long as the electronic and paper version are identical.)
3. All correspondence and communications concerning the lawsuit
4. All correspondence and communications concerning the Expert Report.
5. Your engagement letter concerning this lawsuit and/or your preparation of your Expert Report.
6. All drafts of your Expert Report.
7. All notes and work papers concerning your Expert Report.
8. All notes and work papers concerning the lawsuit.
9. All documents concerning your Expert Report.
10. All communications concerning your Expert Report.
11. Unless otherwise produced, any material, information, documents, or other notations (whether in paper format, electronic format, or otherwise), concerning the lawsuit.

EXHIBIT D

DOCKET NO: NNH-CV17-6072389-S	:	SUPERIOR COURT
	:	
ELIYAHU MIRLIS	:	J.D. OF NEW HAVEN
	:	
V.	:	AT NEW HAVEN
	:	
YESHIVA OF NEW HAVEN, INC. FKA	:	
THE GAN, INC. FKA THE GAN	:	
SCHOOL, TIKVAH HIGH SCHOOL AND	:	
YESHIVA OF NEW HAVEN, INC.	:	JULY 16, 2019

NOTICE OF DEPOSITION

PLEASE TAKE NOTICE that pursuant to Practice Book §§ 13-26 et seq., the defendant, The Yeshiva of New Haven, Inc. (the “Yeshiva” or the “Defendant”), will take the deposition upon oral examination of **Patrick Lemp (the “Deponent”)** on **July 29, 2019 at 10:00AM**. Said depositions shall be held at the date and time set forth above, or such day thereafter as the parties may agree, at the offices of Green & Sklarz, 700 State Street, Suite 100, New Haven, CT 06511, or another location as the parties and Deponent may mutually agree upon.

The deposition will be recorded stenographically before a notary public or other authorized authority and shall continue from day to day until complete.

Pursuant to Practice Book § 13-27(g), the Deponent is requested to bring and produce at the deposition the documents set forth on Exhibit A hereto.

You are invited to attend and cross-examine.

THE DEFENDANT

By:




Jeffrey M. Sklarz
Green & Sklarz LLC
700 State Street, Suite 100
New Haven, CT 06511
(203) 285-8545
Fax: (203) 823-4546
jsklarz@gs-lawfirm.com

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